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03 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re K. E. H. Resources, Inc.

Serial No. 76/143,732

Paul A. Welter of Merchant & Gould for K. E. H. Resources, Inc.

William H. Dawe III, Trademark Examining Attorney, Law Office 108 (David Shallant, Managing Attorney).

Before Cissel, Hanak and Bottorff, Administrative Trademark Judges.

Opinion by Hanak, Administrative Trademark Judge:

K. E. H. Resources, Inc. (applicant) seeks to register ONLINE EMPLOYMENT SYSTEMS in typed drawing form for "educational services, namely, providing on-line interactive programs for use by employers to provide orientation and training to employees via a global computer network; educational services, namely, on-line training courses for employees of temporary staffing companies to obtain CSP or 'Certified Staffing Professional' certifications." The intent-to-use application was filed on October 10, 2000.

Citing Section 2(e)(1) of the Trademark Act, the Examining Attorney has refused registration on the basis that applicant's mark is merely descriptive of applicant's services. When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

As has been stated repeatedly, "a term is merely descriptive if it forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods [or services]." In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978); Abercrombie & Fitch Co. v. Hunting World, Inc., 537 F.2d 4, 189 USPQ 759, 765 (2nd Cir. 1976). Moreover, the descriptiveness of a term is not decided in the abstract, but rather is decided in relationship to the goods or services for which registration is sought. Abcor Development, 200 USPQ at 218. Finally, a word or phrase is "descriptive though it merely describes one of the qualities or properties of the goods [or services]." In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987).

In arguing that its mark is not merely descriptive of its services, applicant makes the following comments at page 2 of its brief: "It is clear that the mark sought to

be registered does not immediately describe the fact that these are educational services. It is more likely that a person viewing the mark would assume that this is a job placement service, for example. Thus, the mark sought to be registered does not lead one to conclude that applicant is providing various educational services under the mark."

During the course of this proceeding, the Examining Attorney made of record a dictionary definition of the word "employment" which shows that this word not only means "the act of employing," but also that it means "the work in which one is engaged; occupation." The American Heritage Dictionary of the English Language (3rd ed. 1992).

Applicant's services include on-line training courses for employees of temporary staffing companies to enable said employees to obtain "Certified Staffing Professional" certifications. Thus, the ONLINE portion of applicant's mark is clearly descriptive of applicant's training courses. The EMPLOYMENT portion of applicant's mark is likewise merely descriptive in that it forthwith denotes that the on-line training courses are designed to assist employers and employees by enhancing the employees' skills in their occupations (employment). Finally, the word SYSTEMS in applicant's mark merely means that applicant's on-line training services to enhance an employee's skills

in his occupation constitute a "method or procedure." The American Heritage Dictionary of the English Language (3rd 1992).

In short, we find that applicant's "mark" ONLINE EMPLOYMENT SYSTEMS forthwith conveys an immediate idea of at least one quality or characteristic of applicant's on-line training courses for employees, namely, that they are given on-line to assist employees (and employers) in enhancing the skills of the employees in their occupations (employment).

Decision: The refusal to register is affirmed.